

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MARIO N. GARCIA, Plaintiff, v. PENN CREDIT CORPORATION, Defendants.	COURT FILE NO.: _____ COMPLAINT JURY TRIAL DEMANDED
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Plaintiff, MARIO N. GARCIA (“Plaintiff”), by and through his attorney, Subhan Tariq, Esq., as and for his Complaint against the Defendant, PENN CREDIT CORPORATION., (hereinafter referred to as Defendant(s”)), respectfully sets forth, complains and alleges, upon information and belief, the following:

JURISDICTION AND VENUE

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
2. This action arises out of Defendants’ repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”) and out of the invasions of Plaintiff’s personal and financial privacy by these Defendants and their agents in their illegal efforts to collect a consumer debt from Plaintiff.
3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331, as well as 15 U.S.C. § 1692 et seq. and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).
4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(2).

PARTIES

5. Plaintiff Mario N. Garcia is a resident of State of New York, residing at 1 W. Forest Avenue, Roosevelt, NY 11575.
6. Defendant Penn Credit Corporation is a Pennsylvania corporation engaged in the business of collecting debts with its principal place of business located at 916 South 14th street, Harrisburg, PA 17104.
7. Plaintiff is a “consumer” as defined by the FDCPA, 15 USC § 1692(a)(30).
8. The Defendant is a “debt collector” as defined and used in the FDCPA under 15 USC § 1692(a)(6).

FACTUAL ALLEGATIONS

9. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered “1” through “8” herein with the same force and effect as if the same were set forth at length herein.
10. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from the Plaintiff.
11. Upon information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communications with the Plaintiff by reporting his account to credit bureaus.
12. On or about March 27, 2015, Alberto Reyes from Asset Protection Management called Penn Credit Corporation., on behalf of the Plaintiff Mario Garcia in order to get information on the account showing on Plaintiff’s credit report.

13. A representative from Penn Credit Corporation answered the phone “call is being monitored for quality assurance purposes. Did you receive a phone call or letter” but did not state her name.

14. Alberto Reyes from Asset Protection Management states: “No, we had faxed over a Power of Attorney.”

15. Defendant’s representative states: “You have a power of attorney?”

16. Alberto Reyes states: “Yes”.

17. Defendant’s representative states: “Who are you calling on behalf of”.

18. Alberto Reyes stated: “Mario Garcia, can I give you his social security number”.

19. Defendant’s representative states: “yes”.

20. Alberto Reyes states: xxx-xx-6809.”

21. Defendant’s representative repeats social security number and provides address to confirm this is the Plaintiff.

22. Defendant’s representative states: “He owes \$1,022. 23 we are requesting payment for the account and can be paid with credit card”.

23. Alberto Reyes states: “What account is this for?”.

24. Defendant’s representative states: “PT & L utility”.

25. Alberto Reyes states: “what company?”

26. Defendant’s representative states: “PT& L utility”

27. Alberto Reyes asks the representative to please hold on a second and upon return states: “My client wants to dispute account, please”.

28. Defendant’s representative states: “What is reason for dispute”.

29. Alberto Reyes states: “Client does not believe he owes this balance”.

30. Defendant's representative states: "Dispute has to be done in writing. Write a letter of dispute and mail or fax it".

31. Alberto Reyes states: "what is fax #."

32. Defendant's representative provides the fax number.

33. Alberto Reyes states: "you are saying you cannot take a dispute over the phone."

34. Defendant's representative states: "No it has to be done in writing. We need it in writing to forward to our client. The letter must have this id# on it: Id#: C9886304."

35. Alberto Reyes: "ok, Thank you very much."

FIRST CAUSE OF ACTION

(Violations of the FDCPA)

36. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "35" herein with the same force and effect as if the same were set forth at length herein.

37. 15 U.S.C. § 1692(e)(8) prohibits a debt collector from communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

38. Defendant is in violation of 15 U.S.C. §1692(e)(8) by perpetuating a deceptive and misleading representation of Plaintiff's credit status by listing Plaintiff's account with national credit bureaus and then placing Plaintiff's account with another entity while failing to inform credit bureaus accordingly, and by refusing

to properly and rightfully send notice to said bureaus that Plaintiff's account was currently in dispute.

39. 15 U.S.C. § 1692(f) – preface prohibits a debt collector from using any unfair or unconscionable actions in connection with the collection of a debt.

40. The Defendant violated 15 U.S.C. § 1692(f) – preface by unfairly and unconscionably refusing to accurately report the status of Plaintiff's account after receiving notification of Plaintiff's dispute, and unfairly allowing it's agent, the employee with whom Plaintiff's representative conversed on March 27, 2015, who informed Plaintiff's representative erroneously that the dispute could not be acknowledged by Defendant. Defendant thus unfairly subjects consumers to misinformation and reports inaccurate credit information to the detriment of consumer's credit profiles.

41. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

42. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendants as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. § 1692(k)(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A)
- C. For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(B)
- D. For attorneys' fees and costs provided and pursuant to 15 U.S.C. 1692k(a)(3);

- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: June 4, 2015

Respectfully submitted,

s/ Subhan Tariq

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(*via Prescribed Service*)

Clerk of the Court,
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Eastern District of New York
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Central Islip, NY 11722
(*For Filing Purposes*)